

Entered on Docket
December 09, 2010

GLORIA L. FRANKLIN, CLERK
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA



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IT IS SO ORDERED.
Signed December 09, 2010

A handwritten signature in black ink that reads "Arthur S. Weissbrodt".

Arthur S. Weissbrodt
U.S. Bankruptcy Judge

6 Attorneys for Lone Oak Fund, LLC
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UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

10 SAN JOSE DIVISION
11
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In re) Case No. 09-51900-ASW
13)
14 BENYAM MULUGETA AND PAULA) Chapter 11
R. MULUGETA,)
15 Debtors.) ORDER GRANTING DEBTOR'S
16) EMERGENCY MOTION TO SELL
17) PROPERTY LOCATED AT 2332
18) HARRISON STREET, OAKLAND,
19) CALIFORNIA
20)
21) Hearing:
22)
23) Date: November 9, 2010
24) Time: 9:45 a.m.
25) Place: Courtroom 3020
26) 280 S. 1st Street
27) San Jose, CA 95113
28)
29)
30)

On October 29, 2010, and November 9, 2010, hearings were held before the Honorable Arthur S. Weissbrodt, United States Bankruptcy Judge for the Northern District of California, in his courtroom "3020" located at 280 S. 1st Street, San Jose, California, to consider the emergency motion (the "Motion") filed by debtors and debtors in possession Benyam and Paula

1 R. Mulugeta (collectively "Debtors") for approval of the sale of the Debtors' real property
2 commonly referred to as 2332 Harrison Street, Oakland, California 94612 (Assessor Parcel No.
3 (A.P.N.) 010-0769-005-00 (the "Harrison Property") free and clear of liens pursuant to 11 U.S.C.
4 §363(b) and (f) and Rules 6004 and 2002 of the Federal Rules of Bankruptcy Procedure.
5 Appearances were made as set forth on the record of this Court.

6 The Court, having considered the Motion and all papers filed by the Debtor in support of
7 the Motion and the limited objections filed by secured creditor Lone Oak Fund, LLC, ("Lone
8 Oak") and the statements, representations and arguments made at the hearing on behalf of the
9 Debtor, Lone Oak and the Office of the United States Trustee (the "OUST") and notice of the
10 Motion and the hearing on the Motion having been provided, and for the reasons set forth on the
11 record of this Court, and good cause appearing therefore,

12 **IT IS HEREBY ORDERED AS FOLLOWS:**

13 1. The Motion is granted as follows:¹

14 a. The Debtors are hereby authorized to sell the Harrison Property to Trading
15 Spaces, LLC (the "Purchaser") for the amount of \$7,000,000.00 "as is" and without any warranty
16 or representation concerning the Harrison Property, including, without limitation, its fitness for a
17 particular use.

18 b. The Debtors are hereby authorized to execute all documents and to take all other
19 steps reasonable and necessary to consummate the sale of the Harrison Property;

20 c. The Debtors are authorized to pay normal, customary and reasonable costs of sale
21 consistent with "Seller's Estimated Settlement Statement" attached hereto as Exhibit "A";

22 d. The Escrow holder is authorized to deliver from escrow at the close of sale the
23 Purchaser's agent commission of \$227,500.00 to Realty World-Viking as described in Exhibit
24 "A";

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27 ¹ The Motion is a public document filed with the United States Bankruptcy Court for the Northern District of
28 California, San Jose Division, as Docket No. 331, in the above-noted Chapter 11 Case, and is accessible via PACER
Web Links.

1 e. The Debtors shall pay from escrow the following secured claims listed in Exhibit
2 "A":

- 3 i. Lone Oak - - \$4,204,828.25, plus \$962.50 per day from and after
4 November 1, 2010 until close of sale;
- 5 ii. J. Robert Taylor - - \$257,338.42, plus \$66.67 per day from and after
6 October 26, 2010 until the close of sale;
- 7 iii. Tomoko Nakama - - \$240,738.07, plus \$40.1096 per day from and after
8 October 26, 2010 until the close of sale;
- 9 iv. Alameda County Tax Collector - - \$234,899.59, plus \$23,677.76, plus
10 \$205.8936 per day from and after October 22, 2010 until the close of sale;
11 and,

12 f. Upon payment from escrow of the secured claims described in subsections e.(i)
13 through e.(iv) immediately above, each such secured claim and related lien shall be deemed
14 satisfied, released and terminated without further action.

15 g. Except that the liens and claims described in subsection e. above, the sale of the
16 Harrison Property shall be free and clear of liens pursuant to 11 U.S.C. §363(f)(3), which shall be
17 paid from escrow at the close of sale, and all remaining liens, if any, shall attach to the proceeds
18 of sale in the same order of recordation of such liens and with the same validity, priority and
19 effect as such liens had against the Harrison Property;

20 h. All of the net proceeds of sale shall be held in trust in an interest bearing trust
21 account No. 5816456882 established at Wells Fargo Bank, 400 Hamilton Avenue, Palo Alto,
22 California, 94301, and shall not be disbursed without a further order of this Court; and,

23 i. The Bankruptcy Court reserves jurisdiction to implement the sale, enforce the
24 terms of this Order, and to resolve any disputes with or related to the sale of the Harrison
25 Property.

26 2. The Purchaser is determined to be a good faith purchaser and entitled to the
27 protections under 11 U.S.C §363(m) of the Bankruptcy Code; and,

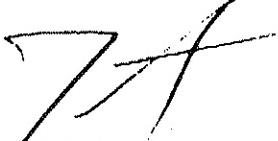
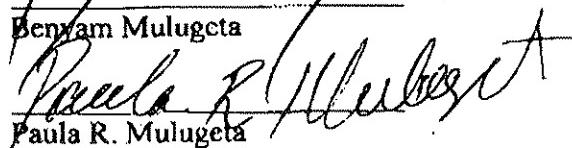
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2 3. The notice provided to creditors and other parties in interest of the Motion is
3 reasonable and appropriate under the circumstances.

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5 APPROVED:

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7 Benyam Mulugeta
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9 Paula R. Mulugeta

10 Office of the United States Trustee

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12 _____
12 John Wesolowski
12 Attorney for the United States Trustee

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14 # # END OF ORDER # #

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5 APPROVED:

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7 Benyam Mulugeta

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9 Paula R. Mulugeta

10 Office of the United States Trustee

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12 John Wesołowski
13 Attorney for the United States Trustee

14 # # END OF ORDER # #

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3 **COURT SERVICE LIST**
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